IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9617 of 1992

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIKRAMBHAI A SHAH

Versus

PATANI CO-OP BANK LTD

Appearance:

MR NILESH A PANDYA for Petitioner No. 1

MR BS PATEL for Respondent No. 1

RULE SERVED for Respondent No. 2

RULE NOT RECD BACK for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 23/12/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition challenged the order passed by the Board of Nominees Court, Baroda in Misc. Application No. 1/90, and also the order passed by the Gujarat State Co-operative

Tribunal, Ahmedabad dated 24th September 1992 in Appeal No. 347/91.

2. I have heard the learned advocates for the respective parties and have perused the relevant record. Ms. B.S. Patel learned advocate for the respondents has submitted that the matter is required to be remanded to the Board of Nominees Court for deciding afresh on merits since the same has not been decided on merits. He further submitted that reasons are not required to be assigned. Therefore, in my opinion, at this stage it is not proper for this Court to give any opinion, in view of the fact that the matter is not being decided on merits. Moreover, the Tribunal has not condoned the delay caused in filing the Appeal.

3. Looking to the peculiar facts and circumstances of the case, a consensus has been arrived at between the parties on the basis of which the impugned orders are required to be quashed and the matter is remanded to the Board of Nominees for fresh decision.

4. In view of the above, the petition is partly allowed. The impugned order dated 30th October, 1991 passed by Board of Nominees Court, Baroda in Misc. Application No. 1/90, at annexure-A and order dated 24th September, 1992 passed by the Tribunal in Appeal No. 347/91 are quashed and set aside.

4.1. The matter is remanded to the Board of Nominees Court for reconsidering the matter afresh on merits. The Board of Nominees Court shall decide the matter afresh, if the decree is not already set aside and shall consider the same in accordance with law, without being influenced by the earlier orders which are quashed in the present petition, as well as the present order, since the same is passed without entering into the merits of the case.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/